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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,354	10/28/1999	STEPHEN K. JOHNSON	10992660-1	7167

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EXAMINER

GIBBS, HEATHER D

ART UNIT PAPER NUMBER

2622

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/430,354

Applicant(s)

JOHNSON ET AL.

Examiner

Heather D Gibbs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

DETAILED ACTION

*Response to Amendment*

1. The amendment filed on 06/21/2004 has been entered and made of record.

*Response to Arguments*

2. Applicant's arguments with respect to claims 1,3-8,10-13,15-20 have been considered but are moot in view of the new ground(s) of rejection.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,3-6,8,10-11,13,15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Toyoda et al (US 6,229,884).

Considering claim 1, which is representative of claims 8 and 13, Toyoda discloses in a system for electronically transmitting to an electronic mail (e-mail) server electronic data derived from optically scanning a document, a method for recovering from an interruption in

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electrical power causing a failure in the complete transmission of the electronic data to the e-mail server, the method comprising: (a) storing the electronic data to a non-volatile storage device; (b) detecting a failure in the complete transmission of electronic data to the e-mail server by examining the storage device for the electronic data derived from optically scanning the document after the interruption in electrical power; responsive to detecting a failure in the complete transmission of electronic data, establishing communication with the e-mail server; and (d) transmitting the electronic data from the storage device to the e-mail server (Col 5 Lines 37-56; Col 6 Lines 13-31; Col 10 Lines 8-29; Fig 9).

Regarding claim 3, which is representative of Claims 10 and 15, Toyoda teaches including monitoring a communication status with the e-mail server, wherein the failure includes a failure in communications with the e-mail server, and wherein detecting the failure includes detecting the failure in communications with the e-mail server (Col 10 Lines 21-40).

Considering claims 4-5, which are representative of Claims 16-18, Toyoda discloses further including before detecting the failure, establishing communication with the e-mail server and wherein the failure interrupts communication with the e-mail server and before detecting the failure and after establishing communication with the e-mail server, beginning transmission of the electronic data to the e-mail server and wherein the failure interrupts the transmission of electronic data to the e-mail server from the storage device (Col 10 Lines 5-40; Fig 9).

Regarding claim 6, which is representative of Claims 11 and 19, Toyoda discloses further including removing the electronic data from the storage device after the transmission of electronic data to the e-mail server (Col 10 Lines 26-29).

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7,12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toyoda et al (US 6,229, 884) in view of Rigaldies et al (US 6,792,085).

Considering claim 7, which is representative of claims 12 and 20, Toyoda discloses the electronic method as discussed above.

Toyoda does not disclose expressly including removing the electronic data from the storage device after the transmission of electronic data to the e-mail server.

Rigaldies discloses removing the electronic data from the storage device after the transmission of electronic data to the e-mail server (Col 22 Lines 29-39).

Toyoda & Rigaldies are combinable because they are from the same scope of nature.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Rigaldies with Toyoda.

The suggestion/motivation for doing so would have been to remove electronic data from the storage device.

Therefore, it would have been obvious to combine Rigaldies with Toyoda to obtain the invention as specified in claims 7,12 and 20.

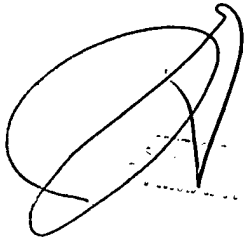
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*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather D Gibbs whose telephone number is 703-306-4152. The examiner can normally be reached on M-F 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 703-305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Heather D Gibbs  
Examiner  
Art Unit 2622

hdg